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3 UNITED STATES DISTRICT COURT

## 4 DISTRICT OF NEVADA

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6 THEODORE STEVENS,

Case No. 3:25-cv-00281-MMD-CSD

7 Petitioner,

ORDER

8 v.

9 JOE LOMBARDO, et al.,

10 Respondents.  
11

12 The Court dismissed Petitioner Theodore Stevens *pro se* petition for writ of habeas  
13 corpus as second and successive, judgment was entered, and the case was closed. (ECF  
14 Nos. 16, 18.) Stevens has filed a motion to alter/amend judgment. (ECF No. 20  
15 (“Motion”).) Because Stevens has not presented any valid basis for the Court to  
16 reconsider its previous order, the Motion is denied.

17 Federal Rule of Civil Procedure 60(b) entitles a moving party to relief from a  
18 judgment on several grounds, including the catch-all provision for “any other reason  
19 justifying relief from the operation of the judgment.” Fed. R. Civ. P. 60(b)(6). A motion  
20 under subsections (b)(4-6) must be brought “within a reasonable time.” Fed. R. Civ. P.  
21 60(c)(1).

22 Stevens indicates on the face of his petition that he seeks to challenge his 2007  
23 conviction of first-degree murder, arguing that his coerced confession violated his  
24 *Miranda*<sup>1</sup> rights. (ECF No. 17 at 1.) He styles the current petition as a 28 U.S.C. § 2241  
25 petition and argues that his sentence is illegal “for lack of jurisdiction” due to the alleged  
26 *Miranda* violation. The Court dismissed the petition as second and successive to Stevens’  
27 petition in Case No. 3:12-cv-00081-RCJ-WGC. That petition was denied on the merits in

28 <sup>1</sup>See *Miranda v. Arizona*, 384 U.S. 436 (1966).

1 its entirety, and the Ninth Circuit Court of Appeals affirmed its denial. (ECF Nos. 49, 55.)  
2 This petition, therefore, is properly construed as a second or successive § 2254 habeas  
3 corpus petition. See *McNabb v. Yates*, 576 F.3d 1028, 1029-1030 (9<sup>th</sup> Cir. 2009); see  
4 also *Henderson v. Lampert*, 396 F.3d 1049, 1053 (9<sup>th</sup> Cir. 2005). Stevens was required  
5 to obtain authorization from the Ninth Circuit before he could proceed. See 28 U.S.C. §  
6 2244(3)(A).

7 A petition filed by a person in custody under a state court's judgment, claiming that  
8 the custody violates the Constitution, laws, or treaties of the United States, is brought  
9 under § 2254(a). Stevens agrees that this petition challenges his state conviction as  
10 violative of his constitutional rights. (ECF No. 20 at 1-2.) Though Stevens persists in  
11 arguing that the petition is properly brought under § 2241, this petition falls squarely under  
12 § 2254(a). As the Court has stated, Stevens cannot avoid the statutory requirement of  
13 authorization from the Ninth Circuit by titling his petition as a § 2241 petition. Stevens  
14 does not argue that he has obtained such authorization. Therefore, Stevens has not  
15 demonstrated that the Court should reconsider its order dismissing this petition.  
16 Accordingly, the Court denies the Motion.

17 Stevens also filed two motions arguing that the petition should be granted because  
18 Respondents have not filed a response. (ECF Nos. 24, 27.) But the Court dismissed the  
19 petition on initial review. (ECF No. 16.) The petition was never served on Respondents.  
20 Respondents have not appeared in this case, and no action was required of them. The  
21 motions are therefore denied.

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1 It is therefore ordered that Stevens' motion to alter/amend judgment (ECF No. 20)  
2 is denied.

3 It is further ordered that Stevens' motion for order granting and motion for order  
4 granting to vacate (ECF Nos. 25, 27) are denied.

5 It is further ordered that Stevens' motion to withdraw the three motions he filed at  
6 ECF Nos. 22, 23, and 24 is granted.

7 DATED THIS 14<sup>th</sup> Day of October 2025.

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MIRANDA M. DU  
11 UNITED STATES DISTRICT JUDGE  
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